

**FREEDOM COURT REPORTING**

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<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE MIDDLE DISTRICT OF ALABAMA</p> <p>3 SOUTHERN DIVISION</p> <p>4</p> <p>5</p> <p>6 NANCY MARTIN and</p> <p>7 MARY BETH BRACKIN,</p> <p>8 Plaintiffs,</p> <p>9 vs. CASE NO. 1:05-CV-1172-MEF</p> <p>10 CITY OF DOTHAN and</p> <p>11 JUDGE ROSE EVANS-GORDON,</p> <p>12 Defendants.</p> <p>13</p> <p>14 *****</p> <p>15 DEPOSITION OF EUNICE KNIGHT, taken</p> <p>16 pursuant to stipulation and agreement before Sherry</p> <p>17 McCaskey, Certified Court Reporter and Commissioner</p> <p>18 for the State of Alabama at Large, in the Dothan</p> <p>19 Civic Center, 126 N. Andrews Street, Dothan,</p> <p>20 Alabama, on Thursday, November 1, 2007, commencing</p> <p>21 at approximately 9:10 a.m.</p> <p>22 *****</p> <p>23</p>	<p>1 STIPULATIONS</p> <p>2 It is hereby stipulated and agreed by and</p> <p>3 between counsel representing the parties that the</p> <p>4 deposition of EUNICE KNIGHT is taken pursuant to the</p> <p>5 Federal Rules of Civil Procedure and that said</p> <p>6 deposition may be taken before Sherry McCaskey,</p> <p>7 Certified Court Reporter and Commissioner for the</p> <p>8 State of Alabama at Large, without the formality of</p> <p>9 a commission; that objections to questions other</p> <p>10 than objections as to the form of the questions need</p> <p>11 not be made at this time but may be reserved for a</p> <p>12 ruling at such time as the deposition may be offered</p> <p>13 in evidence or used for any other purpose as</p> <p>14 provided for by the Federal Rules of Civil</p> <p>15 Procedure.</p> <p>16 It is further stipulated and agreed by and</p> <p>17 between counsel representing the parties in this</p> <p>18 case that said deposition may be introduced at the</p> <p>19 trial of this case or used in any manner by either</p> <p>20 party hereto provided for by the Federal Rules of</p> <p>21 Civil Procedure.</p> <p>22 *****</p> <p>23</p>
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<p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFFS:</p> <p>3 ISHMAEL JAFFREE, ESQUIRE</p> <p>4 Jaffree Law</p> <p>5 951 Government Street</p> <p>6 Suite 415</p> <p>7 Mobile, Alabama 36604</p> <p>8 FOR THE DEFENDANTS:</p> <p>9 CAROL SUE NELSON, ESQUIRE</p> <p>10 Maynard, Cooper &amp; Gayle</p> <p>11 Attorneys at Law</p> <p>12 2400 Amsouth/Harbert Plaza</p> <p>13 1901 Sixth Avenue North</p> <p>14 Birmingham, Alabama 35203</p> <p>15 *****</p> <p>16 EXAMINATION INDEX</p> <p>17 EUNICE KNIGHT</p> <p>18 BY MR. JAFFREE 4</p> <p>19 BY MS. NELSON 62</p> <p>20 BY MR. JAFFREE 65</p> <p>21 *****</p> <p>22</p> <p>23</p>	<p>1 EUNICE KNIGHT</p> <p>2 The witness, having first been duly sworn</p> <p>3 to speak the truth, the whole truth, and nothing but</p> <p>4 the truth, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. JAFFREE:</p> <p>7 Q. Would you state your name for the Record?</p> <p>8 A. Eunice Knight.</p> <p>9 Q. I met you before, right?</p> <p>10 A. I don't think so.</p> <p>11 Q. Oh, it must have been Lavera. I was going to</p> <p>12 say, you sure do look different if I met you.</p> <p>13 Did you employ an attorney to assist you</p> <p>14 in the preparation of this deposition?</p> <p>15 A. Did I employ?</p> <p>16 Q. Uh-huh (positive response).</p> <p>17 A. I did not.</p> <p>18 Q. Do you perceive the city attorney to be your</p> <p>19 attorney?</p> <p>20 A. I do.</p> <p>21 Q. Based on what? Have any claims been brought</p> <p>22 against you?</p> <p>23 A. No.</p>

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1 **Q. Do you think the city attorney represents**  
 2 **every employee of the City of Dothan?**  
 3 A. Do I think that?  
 4 **Q. Uh-huh (positive response).**  
 5 MS. NELSON: Object to the form as to what  
 6 she thinks.  
 7 **Q. Well, if you can answer that.**  
 8 MS. NELSON: If she knows.  
 9 A. I don't know that the city attorney does, but  
 10 I would assume that the city attorney does  
 11 represent the employees.  
 12 **Q. It was suggested before we went on the Record**  
 13 **that you wanted to read and sign the**  
 14 **deposition.**  
 15 A. That's correct.  
 16 **Q. Did you know anything about reading and**  
 17 **signing the deposition before this week?**  
 18 A. Did I know anything about it?  
 19 **Q. Do you know what that meant?**  
 20 A. It was -- no, not before this week, I didn't  
 21 know anything. But I was asked if I wanted to  
 22 read my deposition, and I stated I did.  
 23 **Q. And why do you want it to be read?**

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1 A. I want to be sure that's what was -- what's  
 2 written in the deposition is what I said.  
 3 **Q. So you think that the transcriber may make**  
 4 **mistakes?**  
 5 MS. NELSON: I object to your questioning  
 6 her on this. She has that right. I  
 7 told her that five minutes ago.  
 8 MR. JAFFREE: Oh, five minutes ago. Okay.  
 9 **Q. Just background. Of course, I have no**  
 10 **objection to your reading and signing the**  
 11 **deposition.**  
 12 I'm going to ask you a question that I've  
 13 asked others who have also asked for that  
 14 privilege. In the interest of time, my people  
 15 didn't ask for that privilege. But if a  
 16 deposition in a draft form could be given to  
 17 you, let's say, within four days, how much  
 18 time do you think it would take for you to  
 19 read, sign it, and send it back to the person  
 20 from whom it was sent?  
 21 MS. NELSON: Object to form. I have no  
 22 idea how long we're going to be here  
 23 today nor does she. But if she can

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1 answer that, she can certainly --  
 2 MR. JAFFREE: Well, I appreciate your  
 3 trying to help her out.  
 4 **Q. But let me add to that hypothetical and say**  
 5 **the deposition is already in length and 50**  
 6 **pages. I'm just trying to get some idea of**  
 7 **how long you think it would take you to read**  
 8 **it and get it back to --**  
 9 A. I cannot --  
 10 **Q. -- the court reporting services?**  
 11 A. I cannot answer that question.  
 12 **Q. Do you think it would take more than a day?**  
 13 A. I can't answer that question.  
 14 **Q. More than a week?**  
 15 A. I can't answer that question.  
 16 **Q. Could you commit to getting it back within a**  
 17 **week?**  
 18 A. I cannot commit to that because I do not know.  
 19 **Q. I see. Where are you currently employed?**  
 20 A. With the City of Dothan Judicial Department.  
 21 **Q. And what is your official title?**  
 22 A. Magistrate.  
 23 **Q. And how long have you been a magistrate for**

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1 **the City of Dothan?**  
 2 A. Four years.  
 3 **Q. Do you recall when you were first hired?**  
 4 A. Repeat the question.  
 5 **Q. Do you recall when you were first hired?**  
 6 A. You mean the date?  
 7 **Q. Uh-huh (positive response)?**  
 8 A. Yes.  
 9 **Q. When was that?**  
 10 A. Mid December.  
 11 **Q. December of what year?**  
 12 A. Of 2004.  
 13 **Q. You said mid December?**  
 14 A. Yes.  
 15 **Q. Do you know who was responsible for your hire?**  
 16 A. I was interviewed by the judge and a  
 17 personnel --  
 18 **Q. Pardon?**  
 19 A. I was interviewed by the judge and a group of  
 20 other personnel people.  
 21 **Q. The judge. Are you referring to Judge Gordon,**  
 22 **the defendant, at least one of the defendants**  
 23 **in this action?**

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1 MS. NELSON: I didn't understand your  
2 question.  
3 **Q. When you say the judge, are you referring to**  
4 **Judge Gordon, the defendant in this case?**  
5 A. I am referring to Judge Gordon.  
6 **Q. Were you acquainted with Judge Gordon prior to**  
7 **your interview?**  
8 A. No.  
9 **Q. Do you know who else was in the running for**  
10 **the position when you first applied?**  
11 A. I do not.  
12 **Q. How did you learn that there was a position**  
13 **available?**  
14 A. I just applied. I didn't know a position was  
15 available, but I applied.  
16 **Q. When did you apply?**  
17 A. Probably in 2002 or 2003. And you get put on  
18 a register.  
19 **Q. Did somebody contact you and tell you that**  
20 **there was a position available?**  
21 A. No, they did not.  
22 **Q. So how many months was it between the time you**  
23 **applied and the time you were called in for a**

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1 **interview?**  
2 A. I do not recall.  
3 **Q. Your best guess?**  
4 A. I do not recall.  
5 **Q. Well, let's see. You first applied when?**  
6 MS. NELSON: Asked and answered.  
7 **Q. Well, could you answer it again? You first**  
8 **applied when?**  
9 A. I said I do not recall, but I think it was in  
10 2002 or 3.  
11 **Q. And you don't know what month you applied?**  
12 A. No, I do not.  
13 **Q. Okay. Are you familiar with a person by the**  
14 **name of Melissa White?**  
15 A. Yes, I am.  
16 **Q. Is she related to you?**  
17 A. No, she is not.  
18 **Q. Who is she?**  
19 A. She's a very friend -- close friend of mine,  
20 church member, ball team member, good friend.  
21 **Q. Were you made aware in 2005 that there was an**  
22 **investigation being conducted by internal**  
23 **affairs, concerning Ms. Turner?**

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1 A. If it was in 2005, I was aware of that.  
2 **Q. How did you first become aware of that?**  
3 A. There was a meeting that was called by the  
4 judge to inform the magistrates that there was  
5 an investigation going on.  
6 **Q. Were you aware of the investigation prior to**  
7 **that meeting?**  
8 A. No.  
9 **Q. Do you know on what date that meeting**  
10 **occurred?**  
11 A. I do not recall.  
12 **Q. If I suggested it occurred on March the 10th,**  
13 **2005, does that date sound like it could have**  
14 **been correct?**  
15 A. I do not recall the date.  
16 **Q. Did you prepare for this deposition in**  
17 **advance?**  
18 A. No.  
19 **Q. Okay. You didn't talk to anyone about your**  
20 **deposition?**  
21 A. What do you mean, talk to anyone?  
22 **Q. What do I mean? What do you think I mean,**  
23 **talk to anyone?**

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1 A. I have no idea. That's why I asked.  
2 **Q. Did you speak to anyone about the fact that**  
3 **you had --**  
4 MS. NELSON: I told --  
5 **Q. -- come here for a deposition?**  
6 MR. JAFFREE: If I can get -- I know you  
7 like to testify.  
8 **Q. But if I could just get some testimony from**  
9 **you.**  
10 A. I just want to be sure to clarify what you're  
11 asking me.  
12 **Q. I'm not trying to be opaque. I'm just trying**  
13 **to ask questions the best I can.**  
14 Did you discuss the fact that you were  
15 going to sit for a deposition with anyone?  
16 A. I was advised that I was going to have a  
17 deposition.  
18 **Q. Did you discuss your testimony --**  
19 A. No.  
20 **Q. -- of the deposition with anyone?**  
21 A. No.  
22 **Q. You didn't prepare for the deposition in any**  
23 **way other than being advised that you were**

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<p>1 going to have one?</p> <p>2 A. That's correct.</p> <p>3 Q. Prior to the judge telling the staff that</p> <p>4 there was an investigation of Mary Turner, had</p> <p>5 you spoken with any police officers concerning</p> <p>6 any ticket that Mary Turner may have been</p> <p>7 involved in?</p> <p>8 MS. NELSON: Object to the form. I'm not</p> <p>9 sure what you're asking.</p> <p>10 Q. Can I get an audible response from you?</p> <p>11 A. Could you repeat it?</p> <p>12 Q. Judge Gordon spoke with the entire staff at</p> <p>13 some point and informed them that there was an</p> <p>14 investigation of Mary Turner.</p> <p>15 A. Okay.</p> <p>16 Q. My question to you, prior to the judge having</p> <p>17 this meeting, did you talk to any police</p> <p>18 officer concerning Mary Turner's involvement</p> <p>19 with a traffic ticket?</p> <p>20 A. No.</p> <p>21 Q. Did you have any independent idea what the</p> <p>22 investigation was about that the judge</p> <p>23 mentioned to the group?</p>	<p>1 Q. Were you present when he spoke with Mary</p> <p>2 Brackin?</p> <p>3 A. No.</p> <p>4 Q. Are you quite certain of that?</p> <p>5 A. I don't recall talking to anyone, so I don't</p> <p>6 know.</p> <p>7 Q. Do you know what he wanted when he came there?</p> <p>8 A. No, because I didn't talk to him.</p> <p>9 Q. Pardon?</p> <p>10 A. No.</p> <p>11 Q. You don't have a clue as to what he wanted?</p> <p>12 A. No.</p> <p>13 Q. Did you subsequently learn what he wanted?</p> <p>14 A. No.</p> <p>15 Q. Okay. From the date of your hire until June</p> <p>16 the 1st, had you received any disciplinary</p> <p>17 notices from Judge Gordon?</p> <p>18 A. No.</p> <p>19 Q. From the date of your hire until June the 1st,</p> <p>20 2005, did you file any formal complaints</p> <p>21 against Nancy with Kai Davis?</p> <p>22 A. I have not filed a formal complaint, but I</p> <p>23 spoke with Kai Davis.</p>
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<p>1 A. No, I did not.</p> <p>2 Q. Do you recall whether or not the judge</p> <p>3 instructed the group to not discuss the</p> <p>4 investigation with anyone?</p> <p>5 A. At the meeting?</p> <p>6 Q. Yeah.</p> <p>7 A. She did.</p> <p>8 Q. I may destroy this man's name, but do you know</p> <p>9 a Mr. Fondren?</p> <p>10 A. No, I do not know him.</p> <p>11 Q. Had you heard of him?</p> <p>12 A. What do you mean, heard of him?</p> <p>13 Q. The name Fondren. Let me find his full name.</p> <p>14 (Brief pause)</p> <p>15 Q. Theron Fondren. Theron Fondren, are you</p> <p>16 familiar with him?</p> <p>17 A. I have heard of him.</p> <p>18 Q. Okay. Were you present when he visited the</p> <p>19 magistrates' office on or about February the</p> <p>20 20th of '04?</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. You don't think you were present?</p> <p>23 A. Not to my knowledge.</p>	<p>1 Q. When did you speak with Kai Davis?</p> <p>2 A. I do not recall the date.</p> <p>3 Q. What month did you speak?</p> <p>4 A. I do not recall.</p> <p>5 Q. What year did you speak with Kai Davis?</p> <p>6 A. I do not recall the date.</p> <p>7 Q. You don't recall the year?</p> <p>8 A. No.</p> <p>9 Q. You have no best guess as to what year it was?</p> <p>10 A. I do not want to guess, but I do not recall</p> <p>11 the exact date.</p> <p>12 Q. Do you not trust your memory on any questions</p> <p>13 that I'm asking you?</p> <p>14 A. That's not the point, whether I trust my</p> <p>15 memory. I do not recall the exact date.</p> <p>16 Q. Who was present when you had this discussion</p> <p>17 with Kai Davis?</p> <p>18 A. Ms. McClain.</p> <p>19 Q. You and Ms. McClain?</p> <p>20 A. Yes.</p> <p>21 Q. Upon whose initiative was it to go visit</p> <p>22 Ms. Davis?</p> <p>23 A. Judge Gordon.</p>

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<p>1 <b>Q. Judge Gordon's initiative?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. So you previously met with Judge Gordon?</b></p> <p>4 A. Correct.</p> <p>5 <b>Q. Do you recall the date that you met with Judge</b></p> <p>6 <b>Gordon?</b></p> <p>7 A. I do not.</p> <p>8 <b>Q. Do you recall the nature of the discussion</b></p> <p>9 <b>that you had with Judge Gordon?</b></p> <p>10 A. The discussion was the treatment that Nancy</p> <p>11 Martin was giving myself and Ms. McClain.</p> <p>12 <b>Q. You complained about treatment that you were</b></p> <p>13 <b>receiving from Nancy Martin?</b></p> <p>14 A. Correct.</p> <p>15 <b>Q. Okay. Did you provide the judge with any</b></p> <p>16 <b>specificity, or did you just say treatment?</b></p> <p>17 A. We discussed some issues.</p> <p>18 <b>Q. What issues did you discuss?</b></p> <p>19 A. Issues concerning the magistrate duties.</p> <p>20 <b>Q. The magistrate duties?</b></p> <p>21 A. That I had. And that's basically what it was,</p> <p>22 the magistrate duties.</p> <p>23 <b>Q. Were these some new duties that you were</b></p>	<p>1 A. The matter of --</p> <p>2 <b>Q. Of the compliant against Nancy that we're</b></p> <p>3 <b>getting ready to get into about.</b></p> <p>4 A. Ms. McClain.</p> <p>5 <b>Q. Ms. McClain. Was anyone present with the</b></p> <p>6 <b>judge?</b></p> <p>7 A. No.</p> <p>8 <b>Q. Was Michelle Sellers present?</b></p> <p>9 A. No.</p> <p>10 <b>Q. Where did this meeting occur?</b></p> <p>11 A. In the courtroom.</p> <p>12 <b>Q. Was it an open courtroom?</b></p> <p>13 A. No.</p> <p>14 <b>Q. Was it in her chambers?</b></p> <p>15 A. No.</p> <p>16 <b>Q. Was it on a normal workday?</b></p> <p>17 A. It was on a normal workday after court.</p> <p>18 <b>Q. After court?</b></p> <p>19 A. Yes.</p> <p>20 <b>Q. So and you Ms. McClain went to discuss with</b></p> <p>21 <b>Judge Gordon complaints you had about Nancy?</b></p> <p>22 A. We were in court.</p> <p>23 <b>Q. You were in court that day?</b></p>
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<p>1 <b>given?</b></p> <p>2 A. I do not recall the exact -- if it was the new</p> <p>3 duties or old duties. I am not sure. But</p> <p>4 some of them was new duties, probably.</p> <p>5 <b>Q. Do you recall how frequently Ms. Martin had</b></p> <p>6 <b>given you different duties to do?</b></p> <p>7 MS. NELSON: Object to the form.</p> <p>8 <b>Q. Do you recall?</b></p> <p>9 A. As far as our magistrate duties, we were in</p> <p>10 line to change, I think, three to six</p> <p>11 months -- every 90 days. Every 90 days, I</p> <p>12 think we were changing duties. All the</p> <p>13 magistrates.</p> <p>14 <b>Q. I think you may be in a position to help me a</b></p> <p>15 <b>little bit to narrow down the time.</b></p> <p>16 <b>Was this on or about the time that</b></p> <p>17 <b>Ms. Martin had given you some new duties that</b></p> <p>18 <b>you went and discussed this with Judge Gordon?</b></p> <p>19 A. I'm not sure.</p> <p>20 <b>Q. You're not sure?</b></p> <p>21 A. I'm not sure of the date.</p> <p>22 <b>Q. Who was present when you went to discuss this</b></p> <p>23 <b>matter with Judge Gordon?</b></p>	<p>1 A. Uh-huh (positive response).</p> <p>2 <b>Q. And after court was over, y'all stayed to</b></p> <p>3 <b>discuss Nancy Martin with Judge Gordon?</b></p> <p>4 A. We did.</p> <p>5 <b>Q. Do you recall how long this conversation may</b></p> <p>6 <b>have taken?</b></p> <p>7 A. I do not recall the length.</p> <p>8 <b>Q. Is it likely that this discussion occurred in</b></p> <p>9 <b>September when your duties were changed?</b></p> <p>10 A. I do not recall the date.</p> <p>11 <b>Q. All right. Exactly what did you discuss with</b></p> <p>12 <b>Judge Gordon?</b></p> <p>13 A. I answered that question before.</p> <p>14 <b>Q. You started by saying duties?</b></p> <p>15 A. I said magistrate duties.</p> <p>16 <b>Q. Well, what about magistrate duties?</b></p> <p>17 A. We discussed different magistrate duties.</p> <p>18 <b>Q. All right. Pretend like I'm Judge Gordon,</b></p> <p>19 <b>however difficult that may be, and you're here</b></p> <p>20 <b>with me discussing a problem that you had with</b></p> <p>21 <b>Ms. Martin. What are you telling me?</b></p> <p>22 A. Do you have something specific that you want</p> <p>23 to know.</p>

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1 **Q. Yeah. I want to know what you told me with**  
 2 **respect to your problem with Nancy Martin.**  
 3 MS. NELSON: He just wants you to tell the  
 4 best that you can remember, if you can  
 5 remember, what you said about Nancy or  
 6 complained about.  
 7 A. There was discussion about magistrate duties  
 8 as far as the amount of time that I had to  
 9 process paperwork, the amount of time I had in  
 10 my office.  
 11 **Q. Yes.**  
 12 A. And that was all we discussed about the  
 13 magistrate duties.  
 14 **Q. So your complaint was principally about**  
 15 **magistrate duties?**  
 16 A. There was another complaint.  
 17 **Q. What was the other complaint?**  
 18 A. About her not allowing me to be off with my  
 19 daughter.  
 20 **Q. When did that occur?**  
 21 A. I can't remember the exact date on that.  
 22 **Q. Was that some historic event that had taken**  
 23 **place earlier?**

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1 A. It was not a historical event, but my daughter  
 2 had a problem.  
 3 **Q. Do you understand what I mean by "historic**  
 4 **event?"**  
 5 MS. NELSON: I don't.  
 6 **Q. But do you?**  
 7 A. Explain.  
 8 **Q. Well, on some day that you're not certain of,**  
 9 **you went to speak with Judge Gordon. And one**  
 10 **of the things you talked about was your**  
 11 **concern about the duties that you had been**  
 12 **given. And then you mentioned about not being**  
 13 **allowed time off with my daughter.**  
 14 **And my question is, did this daughter**  
 15 **incident happen on or about the same time that**  
 16 **you were visiting Judge Gordon, or had it**  
 17 **happened sometime prior?**  
 18 A. It was prior to that, but I don't know the  
 19 exact date. It was prior to that.  
 20 **Q. Could have been more than a month?**  
 21 A. I'm -- I'm not sure.  
 22 **Q. Well, were you able to take off with your**  
 23 **daughter?**

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1 A. I didn't take off because of the criteria she  
 2 put on me.  
 3 **Q. What criteria did she put on you?**  
 4 A. That I had to -- when I was off, I had to get  
 5 signed documentation saying the time I left  
 6 the hospital. And I had to be back on the  
 7 next day with no questions about it.  
 8 Otherwise, I was going to get wrote up.  
 9 **Q. Did you discuss this daughter incident with**  
 10 **Nancy Martin at the time it was occurring?**  
 11 A. I did.  
 12 **Q. Did she give you a satisfactory response?**  
 13 A. No, she did not.  
 14 **Q. Did you talk to anybody else about this after**  
 15 **you talked to Nancy when you didn't get a**  
 16 **satisfactory response?**  
 17 MS. NELSON: Other than the judge, what  
 18 she's testified to?  
 19 **Q. Well, I'm talking about during the time this**  
 20 **was occurring.**  
 21 A. No.  
 22 **Q. You didn't speak to the judge about this**  
 23 **during that time?**

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1 A. No. It was after that.  
 2 **Q. So in addition to the office problem and the**  
 3 **problem of your daughter, did you discuss**  
 4 **anything else with Judge Gordon?**  
 5 A. No.  
 6 **Q. Did Lavera have any discussion with Judge**  
 7 **Gordon during the time you were at this**  
 8 **meeting?**  
 9 A. The meeting that we had?  
 10 **Q. Yeah.**  
 11 A. She did have some concerns.  
 12 **Q. Do you recall what concerns she voiced?**  
 13 A. No.  
 14 **Q. You don't recall any of them?**  
 15 A. I can't recall what she said, no.  
 16 **Q. None of them stand out in your mind?**  
 17 A. No. I -- I can only recall what I said.  
 18 **Q. These concerns that you expressed to Judge**  
 19 **Gordon at this meeting, but no one else**  
 20 **attended but the three of you, did you**  
 21 **previously voice these concerns to Ms. Martin?**  
 22 A. I did.  
 23 **Q. Did you previously voice these concerns in**

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<p>1 writing to Ms. Martin?</p> <p>2 A. I did send her a memo. I'm not sure what date</p> <p>3 that was. If it was before or after, I'm not</p> <p>4 sure.</p> <p>5 <b>Q. Memo concerning the very things that you're</b></p> <p>6 <b>discussing now?</b></p> <p>7 A. About my duties.</p> <p>8 <b>Q. Okay. Did you bring that memo with you?</b></p> <p>9 A. No, I did not.</p> <p>10 <b>Q. Did you get a deposition notice asking you to</b></p> <p>11 <b>bring some documents with you?</b></p> <p>12 A. I did not.</p> <p>13 <b>Q. Did you know that you were supposed to bring</b></p> <p>14 <b>documents with you?</b></p> <p>15 A. I did not know.</p> <p>16 <b>Q. You did not know?</b></p> <p>17 A. No.</p> <p>18 <b>Q. Do you have access to the memo that you're</b></p> <p>19 <b>referring to?</b></p> <p>20 MS. NELSON: You have that memo.</p> <p>21 <b>Q. Do you have access to it?</b></p> <p>22 A. I don't have it.</p> <p>23 <b>Q. Do you recall upon what date that you sent</b></p>	<p>1 you --</p> <p>2 MS. NELSON: But you are asking her to</p> <p>3 assume.</p> <p>4 <b>Q. Well, I'm asking you to assume which came</b></p> <p>5 <b>first. Tell me --</b></p> <p>6 MS. NELSON: And she said, she was not</p> <p>7 going to assume.</p> <p>8 <b>Q. Well, I'm not asking you to assume.</b></p> <p>9 MS. NELSON: She's not --</p> <p>10 MR. JAFFREE: Excuse. If I could get</p> <p>11 testimony -- boy, you're notorious for</p> <p>12 testifying for your clients.</p> <p>13 MS. NELSON: I'm not testifying. I'm</p> <p>14 trying to keep the Record straight.</p> <p>15 MR. JAFFREE: I mean, this is not your</p> <p>16 client.</p> <p>17 MS. NELSON: You're badgering the witness,</p> <p>18 and I have the right to keep the</p> <p>19 Record straight and you to question</p> <p>20 her on facts and not assumptions.</p> <p>21 <b>Q. Ma'am, I'm only going by your appearance. You</b></p> <p>22 <b>don't look badgered. Do you feel badgered?</b></p> <p>23 A. I resent that statement.</p>
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<p>1 that memo?</p> <p>2 A. No, sir, I do not.</p> <p>3 <b>Q. Did you copy that memo to Judge Gordon?</b></p> <p>4 A. I did.</p> <p>5 <b>Q. So that memo that counsel says I have a copy</b></p> <p>6 <b>of contains some matter that you discussed</b></p> <p>7 <b>with Judge Gordon?</b></p> <p>8 MS. NELSON: Object to the form. That's</p> <p>9 not what she testified to.</p> <p>10 <b>Q. But I'm asking you, does it? Does it contain</b></p> <p>11 <b>at least some of the matter that you discussed</b></p> <p>12 <b>with Judge Gordon?</b></p> <p>13 A. It contains some of the matter.</p> <p>14 <b>Q. All right. Then using a linear progression,</b></p> <p>15 <b>is it safe to assume -- and if it's not, stop</b></p> <p>16 <b>me -- but is it safe to assume that your</b></p> <p>17 <b>conversation with Judge Gordon occurred after</b></p> <p>18 <b>your memo to Nancy?</b></p> <p>19 A. I do not recall the date.</p> <p>20 <b>Q. But do you understand the question?</b></p> <p>21 A. I did. But I did not recall the dates. I</p> <p>22 don't want to assume.</p> <p>23 <b>Q. Well, I'm not asking you the date. I'm asking</b></p>	<p>1 <b>Q. You resent which statement?</b></p> <p>2 A. What you just said.</p> <p>3 <b>Q. Badgered?</b></p> <p>4 A. My appearance.</p> <p>5 <b>Q. I said, you don't look badgered. Is that an</b></p> <p>6 <b>offensive statement? If so, I apologize.</b></p> <p>7 A. Okay.</p> <p>8 <b>Q. You don't look like a person who's been</b></p> <p>9 <b>badgered. And I'm asking you, are you</b></p> <p>10 <b>badgered?</b></p> <p>11 MS. NELSON: By you? Is that your</p> <p>12 question?</p> <p>13 MR. JAFFREE: Well, by anyone here in this</p> <p>14 room.</p> <p>15 A. I answered your question by saying I do not</p> <p>16 recall.</p> <p>17 <b>Q. Okay. Now, did you receive a response from</b></p> <p>18 <b>Nancy once you sent this memo to her?</b></p> <p>19 A. I did.</p> <p>20 <b>Q. Was that response satisfactory to you?</b></p> <p>21 A. It was satisfactory as far as her not changing</p> <p>22 my duties. There was nothing else I could do</p> <p>23 about it.</p>

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- 1 **Q. Do you have a copy of that response?**  
 2 A. No, I do not.  
 3 **Q. Do you think one would be contained in your**  
 4 **file?**  
 5 A. I do not know.  
 6 **Q. Do you remember what her response was, other**  
 7 **than she's not going to change your duties?**  
 8 A. That's all I remember.  
 9 **Q. Okay. After that response, did you do**  
 10 **anything?**  
 11 A. My duties.  
 12 **Q. Okay. Now, let's get back to this meeting**  
 13 **that you don't recall whether it was before or**  
 14 **after these correspondence, don't recall where**  
 15 **that meeting fell into the flow of events.**  
 16 **You and Lavera were discussing matters with**  
 17 **the judge. And did y'all tell the judge that**  
 18 **y'all felt that y'all were being treated**  
 19 **differently because of your race?**  
 20 A. We did.  
 21 **Q. And upon what did you reach that conclusion?**  
 22 A. As far as me being off with my daughter? I  
 23 was not allowed without bringing documentation

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- 1 saying that I could be off, and I didn't know  
 2 whether or not my daughter was going to have  
 3 cancer or not. That was what the test was  
 4 about. But there was another magistrate in  
 5 the office who had a niece that had a problem,  
 6 and she was allowed to be off without  
 7 documentation.  
 8 **Q. All right. Had you communicated to Ms. Martin**  
 9 **that your daughter was having medical**  
 10 **problems?**  
 11 A. I did.  
 12 **Q. And it's your testimony that in spite of that**  
 13 **communication, she insisted that you work**  
 14 **anyway?**  
 15 A. She said that I could be off with bringing the  
 16 proper documentations from the hospital,  
 17 saying what time I left and that I had to be  
 18 there the next day no matter what happened.  
 19 **Q. So she wanted verification?**  
 20 A. As to the exact time that I left the hospital.  
 21 **Q. Okay. Were there any other incidences upon**  
 22 **which you relied in support of your assumption**  
 23 **that you were being treated differently**

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- 1 **because of your race?**  
 2 A. Yes.  
 3 **Q. What other incidences were those?**  
 4 A. One of my duties as far as arraignments. I  
 5 was off one Friday, and documentation came in  
 6 on a case having to be in court on Monday. I  
 7 was not there on Friday, so there's no way I  
 8 could have the case entered.  
 9 When I returned to work on Monday morning,  
 10 the case was on my desk. I entered it and had  
 11 it ready for court.  
 12 And in the meantime, Ms. Martin called me  
 13 in her office and suggested that she was going  
 14 to write me up because my paperwork was not  
 15 entered.  
 16 Even though my shelf was entered up for  
 17 three months -- for three weeks, everything on  
 18 my shelf was entered for three weeks. And  
 19 then one case that came in when I was not  
 20 there was not entered. And I was advised that  
 21 I should have someone to handle my duties  
 22 while I was out. And that was not advised to  
 23 anyone else.

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- 1 **Q. You weren't advised. Did she write you up for**  
 2 **that?**  
 3 A. She did not write me up -- let's see. She did  
 4 write me up, but later she changed it and said  
 5 that she was not going to put it in my file.  
 6 **Q. Do you have a copy of that writeup?**  
 7 A. No, I do not.  
 8 **Q. Would the writeup be in your file?**  
 9 A. She said she was not going to put it in there,  
 10 so it should not be in there.  
 11 **Q. What did that writeup say?**  
 12 A. That I did not do my duties --  
 13 **Q. Well, after this --**  
 14 A. -- that was assigned.  
 15 **Q. -- suggestion that she was going to write you**  
 16 **up, did you have a discussion with Judge**  
 17 **Gordon?**  
 18 A. No, I did not, about that situation.  
 19 **Q. You didn't? Did you have a discussion with**  
 20 **Lavera?**  
 21 A. No.  
 22 **Q. Did you discuss that situation with anyone?**  
 23 A. After that fact when I went to judge to --

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<p>1 Q. So that's another incident you brought up 2 to -- 3 A. That's with magistrate duties. 4 Q. -- the judge's attention? 5 A. Yes. 6 Q. Can you think of any other incident that you 7 may have brought up with the judge? 8 A. That's the only two that really stands out in 9 my mind at this time. 10 Q. I know you said you don't recall what Lavera 11 said to Judge Gordon. But do you know if the 12 subject matter concerning Nancy treating her 13 differently than she treated other people? 14 A. Well, I'm sure she said that. 15 Q. Sure she said that. 16 A. That the treatment that Nancy was giving us 17 because that was our concerns. 18 Q. Okay. This meeting that you had with Judge 19 Gordon, was it later memorialized? 20 A. Repeat that. 21 Q. This meet that you're talking about, that 22 you're testifying to now that you had with 23 Judge Gordon, was it was later memorialized?</p>	<p>1 you felt you were being treated differently 2 because of your race? 3 A. Uh-huh (positive response). 4 MS. NELSON: You have to say yes. 5 A. Yes. 6 Q. And I think you gave one white comparator in 7 another employee who was allowed to have 8 leave, correct? 9 A. Correct. 10 Q. Did you provide any other white comparators? 11 A. No, I didn't. 12 Q. Do you recall if Lavera provided any white 13 comparators to whatever claim she had? 14 A. I do not. 15 Q. So what was Judge Gordon's response when the 16 two of you, after court in this private 17 meeting, had a discussion with her? What was 18 her response? 19 A. She advised us to go speak with Kai Davis. 20 Q. Why did you speak with Judge Gordon in the 21 first place? 22 A. She is our supervisor. 23 Q. But isn't Nancy your supervisor?</p>
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<p>1 MS. NELSON: Object to the form. You can 2 answer if you understand. What do you 3 mean by "memorialized?" 4 Q. Do you understand what that term means? 5 A. No, I don't understand that. 6 Q. Was it reduced to writing? 7 A. Repeat that. 8 Q. The meeting that you and Lavera had with Judge 9 Gordon, did you summarize that meeting in 10 written form? 11 A. No. 12 Q. Have you prepared a written statement 13 concerning the facts of this case? 14 A. This case? 15 Q. Yeah. 16 A. No. 17 Q. This case. 18 A. No. 19 Q. All right. Do you recall anything else that 20 you may have said to Judge Gordon during this 21 meeting? 22 A. No. 23 Q. So you gave three examples of incidences where</p>	<p>1 A. She was our immediate supervisor. 2 Q. What did you hope Judge Gordon would do about 3 this situation? 4 A. We wanted to inform her of our concerns. 5 Q. Had you previously informed Judge Gordon of 6 your concerns? 7 A. No. 8 Q. Prior to this meeting, did you ever meet with 9 Judge Gordon socially? 10 A. What do you mean? 11 Q. Did you ever meet with Judge Gordon after 12 hours when you were not at work? 13 A. No. 14 Q. Did you ever go to lunch with Judge Gordon? 15 A. Sometimes. 16 Q. Between February of 2005 and October -- wait a 17 minute. Between February 2004 and October of 18 2004, how frequently do you think you went to 19 lunch with Judge Gordon? 20 A. Do not recall. 21 Q. Let's me ask you this: Did you and Lavera 22 ever go to lunch with Judge Gordon, just the 23 two of you alone with Judge Gordon?</p>

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<p>1 A. That occasionally has happened.</p> <p>2 <b>Q. So, occasionally, the three of you would go to</b></p> <p>3 <b>lunch together?</b></p> <p>4 A. That has happened.</p> <p>5 <b>Q. And did y'all have discussions while you were</b></p> <p>6 <b>at lunch?</b></p> <p>7 A. Discussion?</p> <p>8 <b>Q. Yeah, discussions.</b></p> <p>9 A. Clarify.</p> <p>10 <b>Q. Did you talk about anything?</b></p> <p>11 A. We talk about the weather. We talk about our</p> <p>12 hair. We talk about clothes, just regular</p> <p>13 women conversation.</p> <p>14 <b>Q. Did you ever talk about the office?</b></p> <p>15 A. We were at lunch.</p> <p>16 <b>Q. Did you ever talk about the office?</b></p> <p>17 A. I do not recall.</p> <p>18 <b>Q. You could have?</b></p> <p>19 A. I do not recall.</p> <p>20 <b>Q. Do you recall not talking about the office?</b></p> <p>21 A. I do not recall the exact conversation.</p> <p>22 <b>Q. Give me a ballpark guess. How frequently do</b></p> <p>23 <b>you think that the three of you went to lunch</b></p>	<p>1 <b>difficulty?</b></p> <p>2 A. It's not difficult.</p> <p>3 <b>Q. It's not?</b></p> <p>4 A. I answered your question by saying, I do not</p> <p>5 know.</p> <p>6 <b>Q. Do you understand that I'm trying to narrow</b></p> <p>7 <b>the range so that we could get some idea?</b></p> <p>8 MS. NELSON: You're trying to get her to</p> <p>9 testify to something that she does not</p> <p>10 remember.</p> <p>11 <b>Q. I'm trying to get you to come up with a</b></p> <p>12 <b>range. Do you understand that?</b></p> <p>13 MS. NELSON: And I'd ask her not to guess</p> <p>14 if she does not know.</p> <p>15 A. I'm not going to guess.</p> <p>16 <b>Q. You're not going to guess; you're not going to</b></p> <p>17 <b>share with us, the court that may read your</b></p> <p>18 <b>testimony, a range of times that the three of</b></p> <p>19 <b>you have gone to lunch together?</b></p> <p>20 A. I do not recall the number of times we went to</p> <p>21 lunch. That's not important to me.</p> <p>22 <b>Q. It's not important to you?</b></p> <p>23 A. (Witness nods head in the affirmative).</p>
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<p>1 <b>together?</b></p> <p>2 A. Not frequently.</p> <p>3 <b>Q. More than ten times?</b></p> <p>4 A. Not frequently. I do not have a number.</p> <p>5 <b>Q. Can you tell me that it's more than ten times?</b></p> <p>6 MS. NELSON: She's asked and answered.</p> <p>7 MR. JAFFREE: I'm asking her a specific</p> <p>8 question.</p> <p>9 A. I do not have a number.</p> <p>10 <b>Q. Can you tell me whether you think it's been</b></p> <p>11 <b>more than ten times?</b></p> <p>12 MS. NELSON: Asked and answered.</p> <p>13 MR. JAFFREE: It hasn't been answered.</p> <p>14 It's been avoided.</p> <p>15 MS. NELSON: She says, she does not</p> <p>16 remember. And you are badgering.</p> <p>17 A. I don't know.</p> <p>18 <b>Q. Well, do you realize the difficulty in this</b></p> <p>19 <b>line of inquiry when you won't give me some</b></p> <p>20 <b>idea of how frequently the three of you went</b></p> <p>21 <b>to lunch together?</b></p> <p>22 MS. NELSON: She's answered your question.</p> <p>23 <b>Q. Do you understand my question now, the</b></p>	<p>1 MS. NELSON: She can't pick up a nod.</p> <p>2 A. Yes.</p> <p>3 <b>Q. Can you tell me how many times you, Lavera,</b></p> <p>4 <b>and Nancy have gone to lunch together?</b></p> <p>5 A. No, I can't say the number of times.</p> <p>6 <b>Q. Have you ever gone to lunch the two of you</b></p> <p>7 <b>with just Nancy by herself?</b></p> <p>8 A. No.</p> <p>9 <b>Q. So when you said, you can't think of the</b></p> <p>10 <b>number of times, you meant, there's never been</b></p> <p>11 <b>any time; is that correct?</b></p> <p>12 A. No, that's not correct.</p> <p>13 <b>Q. Well, have you ever gone to lunch with just</b></p> <p>14 <b>Nancy and Lavera?</b></p> <p>15 A. No.</p> <p>16 <b>Q. So the answer is, you have never gone to</b></p> <p>17 <b>lunch?</b></p> <p>18 A. No. We went to lunch with more than just</p> <p>19 Nancy and Lavera and myself.</p> <p>20 <b>Q. Yeah. Well, I understand that.</b></p> <p>21 <b>What race is Lavera?</b></p> <p>22 A. She's black.</p> <p>23 <b>Q. What race is Judge Gordon?</b></p>

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<p>1 A. She's black.</p> <p>2 <b>Q. And what race are you?</b></p> <p>3 A. I'm black.</p> <p>4 <b>Q. Now, Judge Gordon told you to go speak to</b>  5 <b>somebody when you came to her with this</b>  6 <b>complaint; is that correct?</b></p> <p>7 A. And the complaint, you mean?</p> <p>8 <b>Q. The complaint that we're talking about that</b>  9 <b>you and Lavera made against Nancy.</b></p> <p>10 A. She did.</p> <p>11 <b>Q. And who did you go speak with?</b></p> <p>12 A. Kai Davis. I answered that question before.</p> <p>13 <b>Q. Do you recall when you went to speak to Kai</b>  14 <b>Davis?</b></p> <p>15 A. I do not recall the date.</p> <p>16 <b>Q. Okay. Can I assume that you went to Kai Davis</b>  17 <b>after you spoke with Judge Gordon?</b></p> <p>18 MS. NELSON: Object to the form.</p> <p>19 <b>Q. Or do you want to say you don't recall in that</b>  20 <b>as well?</b></p> <p>21 MS. NELSON: Object to your badgering</p> <p>22 her.</p> <p>23 MR. JAFFREE: I'm asking her a question.</p>	<p>1 <b>Davis after you talked to the judge?</b></p> <p>2 A. I did.</p> <p>3 <b>Q. Thank you. That wasn't difficult, was it?</b></p> <p>4 MS. NELSON: Because you asked a straight</p> <p>5 question.</p> <p>6 <b>Q. What did you tell Kai Davis?</b></p> <p>7 A. The concerns we had about the office and the</p> <p>8 treatment that we were getting.</p> <p>9 <b>Q. Pretty much the same thing that you told the</b>  10 <b>judge; is that correct?</b></p> <p>11 A. Correct. Correct.</p> <p>12 <b>Q. Were you the only one who spoke with Kai</b>  13 <b>Davis?</b></p> <p>14 A. Lavera and myself with Kai Davis -- went to</p> <p>15 Kai Davis.</p> <p>16 <b>Q. Okay. The two of you went to Kai Davis and</b>  17 <b>complained. And did y'all put your complaint</b>  18 <b>in writing to Kai Davis?</b></p> <p>19 A. We did not.</p> <p>20 <b>Q. And what did Kai Davis do after you went to</b>  21 <b>her to complain?</b></p> <p>22 A. She advised us we need to have documentation</p> <p>23 about our concerns.</p>
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<p>1 How can you get in this witness's mind</p> <p>2 and tell me whether or not she feels</p> <p>3 that I'm badgering her.</p> <p>4 MS. NELSON: Object to --</p> <p>5 MR. JAFFREE: Is that your impression?</p> <p>6 MS. NELSON: Is he trying to --</p> <p>7 MR. JAFFREE: Are you being badgered?</p> <p>8 MS. NELSON: I feel I am. Yes.</p> <p>9 MR. JAFFREE: You're being badgered.</p> <p>10 MS. NELSON: Yes. Your questions -- if</p> <p>11 you could ask her what occurred</p> <p>12 instead of trying to -- I've asked her</p> <p>13 not to assume.</p> <p>14 MR. JAFFREE: You cannot frame my</p> <p>15 questions for me. The questions are</p> <p>16 very straightforward and simple. If</p> <p>17 these questions --</p> <p>18 MS. NELSON: Ask her what she --</p> <p>19 MR. JAFFREE: I'll ask her what I want to</p> <p>20 ask her.</p> <p>21 MS. NELSON: I wish you would just ask her</p> <p>22 to tell you the facts.</p> <p>23 <b>Q. Do you know whether or not you went to Kai</b></p>	<p>1 <b>Q. Documents. You didn't have any documentation?</b></p> <p>2 A. We didn't.</p> <p>3 <b>Q. Did she indicate what kind of documentation</b>  4 <b>she was looking for?</b></p> <p>5 A. No, she didn't. She just told us that we need</p> <p>6 documentation about what were coming to her</p> <p>7 for.</p> <p>8 <b>Q. And did y'all commit to getting some</b>  9 <b>documentation?</b></p> <p>10 A. We didn't. We didn't go back and give her</p> <p>11 any.</p> <p>12 <b>Q. Why not?</b></p> <p>13 A. We just did not.</p> <p>14 <b>Q. Isn't it true that shortly after you went to</b>  15 <b>Kai Davis, Nancy was terminated?</b></p> <p>16 A. I'm not sure about that.</p> <p>17 <b>Q. Not sure about that?</b></p> <p>18 A. I don't recall the date. I don't recall the</p> <p>19 date.</p> <p>20 <b>Q. Do you know when Nancy was terminated?</b></p> <p>21 A. I do not recall that date.</p> <p>22 <b>Q. Well, if I tell you that the decision was made</b>  23 <b>at least by October the 5th to terminate</b></p>

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<p>1 Nancy, would you be in a position to dispute</p> <p>2 that?</p> <p>3 A. I do not recall the date, so I don't know.</p> <p>4 Q. Well, okay. See if you agree with this:</p> <p>5 Sometime between the time that you went to the</p> <p>6 judge with your complaints and the time that</p> <p>7 you went to Kai Davis with your</p> <p>8 complaints -- and can I assume that your</p> <p>9 complaints with Kai Davis was, Nancy was</p> <p>10 discriminating against you, correct?</p> <p>11 A. Correct.</p> <p>12 Q. So from the time you went to the judge about</p> <p>13 your discrimination complaints and the time</p> <p>14 you went to Kai Davis, between that time and</p> <p>15 the time that Nancy was terminated, she was</p> <p>16 terminated. Are you following the question?</p> <p>17 MS. NELSON: Object to the form.</p> <p>18 Q. All right. That's a bad question, and I admit</p> <p>19 it. And so I'm going to ask a slightly better</p> <p>20 question.</p> <p>21 Would you agree that Nancy was terminated</p> <p>22 after you went to Kai Davis?</p> <p>23 A. Yes.</p>	<p>1 A. I never complained about job assignment. I</p> <p>2 complained about the amount of duties.</p> <p>3 Q. Well, do you know Tonya Minifield?</p> <p>4 A. I do.</p> <p>5 Q. How long have you known her?</p> <p>6 A. Just when she started.</p> <p>7 Q. You didn't know her prior to her --</p> <p>8 A. No.</p> <p>9 Q. -- coming to work.</p> <p>10 Is the name Ronald Powe familiar to you?</p> <p>11 A. It is.</p> <p>12 Q. In what way is that name familiar to you?</p> <p>13 A. What do you mean, "what way?"</p> <p>14 Q. Well, how do you know him?</p> <p>15 A. He was a defendant in our court.</p> <p>16 Q. Do you know if you executed or signed an alias</p> <p>17 writ of arrest for Mr. Powe?</p> <p>18 MS. NELSON: I'd ask that you show her the</p> <p>19 documents.</p> <p>20 MR. JAFFREE: Well, I'm not going to show</p> <p>21 her the documents at this time.</p> <p>22 Q. Do you know if you executed an alias writ of a</p> <p>23 warrant of arrest?</p>
Page 46	Page 48
<p>1 Q. Do you know whether or not there was any</p> <p>2 connection between your going to Judge Gordon</p> <p>3 with a race discrimination complaint and</p> <p>4 Nancy's termination? Do you know?</p> <p>5 A. No.</p> <p>6 Q. Were you disappointed that Nancy was</p> <p>7 terminated?</p> <p>8 A. No.</p> <p>9 Q. No? Was that a no?</p> <p>10 A. No, I was not disappointed.</p> <p>11 Q. Do you know if Nancy had the authority as the</p> <p>12 administrator of the magistrates' office to</p> <p>13 change job schedules?</p> <p>14 A. I didn't understand what you said in any of</p> <p>15 that question.</p> <p>16 Q. Do you know if Nancy had the authority as</p> <p>17 administrator of the magistrates' office to</p> <p>18 change job duties? Do you know?</p> <p>19 A. I don't know for sure, but if she did, then,</p> <p>20 you know, that's fine.</p> <p>21 Q. Isn't it true that that was not the first time</p> <p>22 you had complained about a job assignment that</p> <p>23 Nancy had given you?</p>	<p>1 A. Well, I executed several warrants of arrest</p> <p>2 and I do not remember every name that I</p> <p>3 signed.</p> <p>4 Q. Do you know if you issued a writ of arrest in</p> <p>5 error on Mr. Powe?</p> <p>6 A. No, I did not.</p> <p>7 Q. You did not?</p> <p>8 A. No, not to my knowledge of any error that I</p> <p>9 issued anyone.</p> <p>10 Q. Did you ever submit to Mr. Powe -- strike</p> <p>11 that. Did you ever submit to the Department</p> <p>12 of Public Safety a letter indicating that an</p> <p>13 FTA was issued in error concerning Mr. Powe?</p> <p>14 A. We have several letters that we do write to</p> <p>15 the Department of Public Safety, but to say a</p> <p>16 specific person, I need the documentation</p> <p>17 shown to me first.</p> <p>18 Q. Did you ever give Mr. Powe a \$300 cash bond</p> <p>19 back?</p> <p>20 A. I do recall something about a cash bond, yes.</p> <p>21 Q. Was that the policy, to give people cash bonds</p> <p>22 back as cash?</p> <p>23 A. On that case, it was a direct order.</p>

12 (Pages 45 to 48)

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# FREEDOM COURT REPORTING

<p style="text-align: right;">Page 49</p> <p>1 <b>Q. Direct order from who?</b>  2 A. From the prosecutor who was Ms. Ott and the  3 judge.  4 <b>Q. The judge gave you an order to give Mr. Powe</b>  5 <b>back cash?</b>  6 A. Ms. Ott, the prosecutor.  7 <b>Q. Well, you said, and the judge. So which one</b>  8 <b>of them gave you the order?</b>  9 A. Ms. Ott called me first.  10 <b>Q. Okay. And then what?</b>  11 A. And then the judge.  12 <b>Q. The judge called you after Ms. Ott?</b>  13 A. Somewhere in that -- yes.  14 <b>Q. They both called you about the same matter?</b>  15 A. Yes.  16 <b>Q. Well, if Ms. Ott had called you and told you</b>  17 <b>to give Mr. Powe back cash, why did the judge</b>  18 <b>follow up that phone call?</b>  19 A. The judge is over our department.  20 <b>Q. I see. You remember when the judge called you</b>  21 <b>and told you to give Mr. Powe cash back?</b>  22 A. I do not recall the date, but Mr. Powe was in  23 the courtroom.</p>	<p style="text-align: right;">Page 51</p> <p>1 <b>Judge Gordon?</b>  2 A. No, sir, I'm not sure.  3 <b>Q. About anything?</b>  4 A. No, I'm not sure.  5 <b>Q. What is your normal practice when you get a</b>  6 <b>memo from Judge Gordon?</b>  7 A. We read the memo.  8 <b>Q. And then what do you do with it?</b>  9 A. Well, sometimes I keep them and sometimes I  10 don't.  11 <b>Q. Well, what would make you decide whether to</b>  12 <b>keep it or not?</b>  13 <b>(Brief pause)</b>  14 <b>Q. Did you hear the question?</b>  15 A. Yeah. But what you do mean, make me decide?  16 <b>Q. Well, you said, sometimes you keep them and</b>  17 <b>sometimes you don't. Upon what criteria do</b>  18 <b>you use do you decide which ones to keep and</b>  19 <b>which ones not to keep?</b>  20 A. There is no criteria to that.  21 <b>Q. And as you sit here today, you don't know</b>  22 <b>whether or not you have any memos that Judge</b>  23 <b>Gordon have sent?</b></p>
<p style="text-align: right;">Page 50</p> <p>1 <b>Q. I may be through with you.</b>  2 MR. JAFFREE: But I asked for a series of  3 documents from this witness in her  4 deposition. She didn't bring any.  5 When can I receive those documents?  6 MS. NELSON: What documents did you ask  7 for? This witness does not have  8 custody and control of documents.  9 MR. JAFFREE: Well --  10 <b>Q. Do you have custody and control of memorandums</b>  11 <b>that was issued to you by Judge Gordon?</b>  12 A. I do not have.  13 <b>(Brief interruption)</b>  14 <b>Q. I'm sorry. What was your answer?</b>  15 A. No, I do not have.  16 <b>Q. So if Judge Gordon sends you a memo, you no</b>  17 <b>longer have control over that memo?</b>  18 A. No, we don't keep them all.  19 <b>Q. Do you keep any of them?</b>  20 A. I am not sure I would have.  21 <b>Q. Would you have some of them?</b>  22 A. I am not sure.  23 <b>Q. You're not sure whether you have any memo from</b></p>	<p style="text-align: right;">Page 52</p> <p>1 A. I'm not sure.  2 <b>Q. Not sure?</b>  3 A. Right.  4 <b>Q. Well, the ones you keep, where do you keep</b>  5 <b>them at?</b>  6 A. Some are on the e-mail that we get, and some  7 are in my office, if I have any still there.  8 <b>Q. Do you have a -- I can't even think of the</b>  9 <b>right term for it -- a process of storing</b>  10 <b>e-mail messages that you receive?</b>  11 A. No.  12 <b>Q. You don't have any stored e-mail messages?</b>  13 A. On my computer?  14 <b>Q. Well, on some computer in a form that you can</b>  15 <b>gain access to.</b>  16 A. There are some on my computer, yes. But I  17 don't know how many would be there.  18 <b>Q. Do you know if there are any e-mails from</b>  19 <b>Judge Gordon on your computer?</b>  20 A. I'm not sure how many I have.  21 <b>Q. Well, do you know if you have any?</b>  22 A. I'm not sure.  23 <b>Q. You're not sure if there's any?</b></p>

13 (Pages 49 to 52)

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## FREEDOM COURT REPORTING

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- 1 A. No, I'm not sure.
- 2 **Q. Well, I asked for copies of all disciplinary**
- 3 **notices you have received. Can I assume that**
- 4 **you haven't received any?**
- 5 A. I've been working for 25-plus years. I have
- 6 never in my employment received a disciplinary
- 7 notice about not doing my duties.
- 8 **Q. Okay. So I guess the answer is, no, you don't**
- 9 **have any of those.**
- 10 **And just so I'm clear, copy of all memos,**
- 11 **notes, letters, e-mails, and other forms of**
- 12 **written communication which you have received**
- 13 **from Judge Gordon from the onset of your**
- 14 **employment as a magistrate until May the 30th**
- 15 **of 2005.**
- 16 **Do you know if you have any of those**
- 17 **things: memos, notes, letters, e-mails, and**
- 18 **other forms of written communication which you**
- 19 **have received from Judge Gordon?**
- 20 A. No, I do not.
- 21 **Q. As you sit here now, you don't know if you**
- 22 **have any of those?**
- 23 A. Right. I do not know.

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- 1 **Q. Well, can you look and see, and if you do have**
- 2 **some, can you provide them to the City's**
- 3 **counsel so that I have them as I requested?**
- 4 A. I can look and see, yes.
- 5 **Q. In addition to looking and seeing, if you find**
- 6 **any, will you provide them to the City's**
- 7 **counsel?**
- 8 A. And what specific memo are you looking for?
- 9 **Q. All of them that you have received from Judge**
- 10 **Gordon for that time period, from the onset of**
- 11 **your employment as a magistrate until May the**
- 12 **30th, 2005.**
- 13 A. I will look.
- 14 **Q. My question is not whether you will look.**
- 15 **You've already --**
- 16 **MS. NELSON: She said she would look.**
- 17 **Q. -- addressed me with you would look. That's**
- 18 **not my question. My question is --**
- 19 A. You asked me if I would look and see if I have
- 20 any, I said, yes.
- 21 **Q. That was one question. My question on the**
- 22 **floor now is, if you discover that you have**
- 23 **them, will you give them to the City's**

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- 1 **attorney so she can give them to?**
- 2 A. I said, yes, I will look.
- 3 **Q. You'll what?**
- 4 A. I will look to see if I have any.
- 5 **Q. Let me see if I can make this crystal clear**
- 6 **and let me know if it's crystal: If you find**
- 7 **any, will you turn them over to the City's**
- 8 **attorney so she, in turn, can give them to**
- 9 **me? Can I get a yes or no?**
- 10 A. Yes.
- 11 **Q. Yes what?**
- 12 A. I will.
- 13 **Q. You will what?**
- 14 A. If I find a memo, I will give it to the City's
- 15 attorney.
- 16 **Q. Will you give all of your memos to the City**
- 17 **attorney?**
- 18 A. And the purpose of all of my memos?
- 19 **Q. Regardless of the purpose, will you give all**
- 20 **of your memos that you find --**
- 21 **MS. NELSON: From the judge.**
- 22 **Q. -- from the judge to the City attorney?**
- 23 A. Yes.

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- 1 **Q. Thank you. Will you give all your e-mails**
- 2 **that you find from the judge to the City**
- 3 **attorney?**
- 4 **MS. NELSON: I'm going to object to that.**
- 5 **She operates off of a city computer**
- 6 **that's not in her custody and control.**
- 7 **Q. Can you get access to the e-mails that you**
- 8 **have from the judge?**
- 9 A. I have access to my e-mail, yes.
- 10 **Q. And so you can pull things off of that e-mail**
- 11 **access -- from that e-mail access, can't you?**
- 12 A. If I have anything, yes.
- 13 **Q. Can I get a commitment from you that you will**
- 14 **look for your e-mail messages from Judge**
- 15 **Gordon and submit them to the attorney?**
- 16 A. I previously stated that if I did have an
- 17 e-mail from the judge, I would do that.
- 18 **Q. Same question with respect to other forms of**
- 19 **written communication.**
- 20 A. Memo from the judge?
- 21 **Q. Sure.**
- 22 A. Yes.
- 23 **Q. Now, that we've settled that, can you give me**

14 (Pages 53 to 56)

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## FREEDOM COURT REPORTING

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<p>1 some idea of what time period you would take</p> <p>2 to look for these things?</p> <p>3 A. No, I cannot.</p> <p>4 Q. Can you commit to looking for them for the</p> <p>5 next week?</p> <p>6 A. I cannot commit to that.</p> <p>7 Q. Can you commit to looking for them during the</p> <p>8 next two weeks?</p> <p>9 A. I cannot commit to a time frame, but I will</p> <p>10 look.</p> <p>11 Q. Well, that's not very never helpful. You</p> <p>12 understand that, don't you?</p> <p>13 MS. NELSON: She said she would look.</p> <p>14 Q. Do you realize how unhelpful that is? If you</p> <p>15 look ten years from now, you have fulfilled</p> <p>16 your obligation to look, wouldn't you?</p> <p>17 A. Repeat that.</p> <p>18 Q. If you look ten years from now, you would</p> <p>19 fulfill your obligation to look?</p> <p>20 A. If I -- if I said I would look.</p> <p>21 Q. Yeah. So your telling me you will look with</p> <p>22 no time frame is not helpful, is it?</p> <p>23 A. Well, I told you previously, I don't know if I</p>	<p>1 I never said I'm representing her.</p> <p>2 MR. JAFFREE: I see.</p> <p>3 MS. NELSON: I have tried to assist you by</p> <p>4 making her available.</p> <p>5 MR. JAFFREE: Sure. I mean, she's here.</p> <p>6 I asked for information from her.</p> <p>7 MS. NELSON: And you're asking for</p> <p>8 information that she may say she</p> <p>9 can -- well, just strike that. I'll</p> <p>10 make my appropriate objections down</p> <p>11 the road. You're asking for</p> <p>12 information that may be --</p> <p>13 MR. JAFFREE: I think your appropriate</p> <p>14 objections may be a little late.</p> <p>15 However --</p> <p>16 MS. NELSON: You didn't even properly</p> <p>17 serve your notice right. I don't even</p> <p>18 know if I got one. You sent it on</p> <p>19 some kind of e-mail. You never</p> <p>20 properly even served me.</p> <p>21 MR. JAFFREE: Well, she appeared here,</p> <p>22 whether or not it was properly served</p> <p>23 or not.</p>
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<p>1 have any at all.</p> <p>2 Q. Well, how long would it take you to find out</p> <p>3 if you have any?</p> <p>4 MS. NELSON: Again, you're badgering this</p> <p>5 witness. She said she'd look.</p> <p>6 MR. JAFFREE: Would you --</p> <p>7 MS. NELSON: We produced this witness; you</p> <p>8 did not subpoena her. I could have</p> <p>9 made you subpoena her. She is not a</p> <p>10 management employee.</p> <p>11 MR. JAFFREE: Well, then pursuant to what</p> <p>12 authority are you representing her</p> <p>13 then?</p> <p>14 MS. NELSON: I've produced her because you</p> <p>15 asked. I'm making this convenient for</p> <p>16 you.</p> <p>17 MR. JAFFREE: Excuse me. You told me that</p> <p>18 you represent this woman and she told</p> <p>19 --</p> <p>20 MS. NELSON: I never said that.</p> <p>21 MR. JAFFREE: And she claims that you are</p> <p>22 her attorney.</p> <p>23 MS. NELSON: Well, she may misunderstand.</p>	<p>1 MS. NELSON: Because we were trying to</p> <p>2 cooperate. And I said you didn't have</p> <p>3 to subpoena --</p> <p>4 MR. JAFFREE: You're not trying to</p> <p>5 cooperate now.</p> <p>6 MS. NELSON: You're right because you're</p> <p>7 badgering her, and she does not have</p> <p>8 any documents.</p> <p>9 Q. Ma'am, I'm trying to get some date as when you</p> <p>10 would look.</p> <p>11 A. I don't have a date. I will say, I will look</p> <p>12 at my earliest convenience.</p> <p>13 Q. Can you commit to looking within the next two</p> <p>14 weeks?</p> <p>15 A. At my earliest convenience I will look.</p> <p>16 Q. Okay. You will not commit to looking within</p> <p>17 the next two weeks?</p> <p>18 MS. NELSON: She said she will commit to</p> <p>19 her earliest convenience.</p> <p>20 Q. If you gave a subordinate a task -- listen</p> <p>21 carefully -- and that subordinate told you</p> <p>22 that they will perform that task at their</p> <p>23 earliest convenience, would that response be</p>

15 (Pages 57 to 60)

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## FREEDOM COURT REPORTING

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<p>1 satisfactory to you?</p> <p>2 MS. NELSON: She is not your subordinate,</p> <p>3 and I object to the form.</p> <p>4 <b>Q. Would it?</b></p> <p>5 MS. NELSON: Object to the form.</p> <p>6 <b>Q. Yes or no. I just want to know, yes or no?</b></p> <p>7 <b>Yes, without looking at the attorney, can</b></p> <p>8 <b>you just answer yes or no?</b></p> <p>9 MS. NELSON: And I would instruct her not</p> <p>10 to answer. You're badgering this</p> <p>11 witness.</p> <p>12 MR. JAFFREE: You don't have any authority</p> <p>13 to instruct her not to answer. You're</p> <p>14 not her attorney. You just said it.</p> <p>15 You have no authority.</p> <p>16 <b>Q. Can you answer the question?</b></p> <p>17 MS. NELSON: And I say we disband this</p> <p>18 deposition right now.</p> <p>19 MR. JAFFREE: You don't have authority to</p> <p>20 do that either.</p> <p>21 <b>Q. Can you answer the question yes or no, or do</b></p> <p>22 <b>you --</b></p> <p>23 A. Well, I have answered your question. I asked</p>	<p>1 <b>Mr. Fondren and what she may have told him?</b></p> <p>2 A. Mr. --</p> <p>3 MR. JAFFREE: Let me object. This is not</p> <p>4 in any way related to my direct.</p> <p>5 MS. NELSON: It is. I have the right --</p> <p>6 MR. JAFFREE: I didn't go up that channel</p> <p>7 but --</p> <p>8 MS. NELSON: Well, make your objection for</p> <p>9 the Record.</p> <p>10 MR. JAFFREE: Fine. If you're going to</p> <p>11 ask her, I'm going to ask her a</p> <p>12 followup question on that same line.</p> <p>13 <b>Q. Well, I'm just asking, did you hear</b></p> <p>14 <b>Ms. Brackin make any statement about -- do you</b></p> <p>15 <b>recall the Fondren situation? Are you aware</b></p> <p>16 <b>he was --</b></p> <p>17 MR. JAFFREE: Well, without --</p> <p>18 <b>Q. -- involved in a claim of false arrest?</b></p> <p>19 MR. JAFFREE: Without milking --</p> <p>20 A. I do.</p> <p>21 MR. JAFFREE: Without milking the claim</p> <p>22 and telling her what the Fondren --</p> <p>23 just ask her what she remembers about</p>
Page 62	Page 64
<p>1 you, what do you want with a memo.</p> <p>2 <b>Q. Do you refuse to answer that question?</b></p> <p>3 A. If I had a memo, I said I would get it for you</p> <p>4 at my earliest convenience. That's my answer.</p> <p>5 MR. JAFFREE: I have no further questions</p> <p>6 of this witness.</p> <p>7 EXAMINATION</p> <p>8 BY MS. NELSON:</p> <p>9 <b>Q. I just have one quick one.</b></p> <p>10 <b>Ms. Knight, earlier on in this deposition,</b></p> <p>11 <b>he asked you if you know of a Mr. -- I think</b></p> <p>12 <b>his name is Theron Fondren, and you said you</b></p> <p>13 <b>had heard his name. He asked you were you</b></p> <p>14 <b>present when he perhaps was in the</b></p> <p>15 <b>magistrates' office, having a discussion with</b></p> <p>16 <b>Mary Beth Brackin. Do you remember him asking</b></p> <p>17 <b>you those type questions?</b></p> <p>18 A. I do.</p> <p>19 <b>Q. And I believe you said you were not; is that</b></p> <p>20 <b>correct?</b></p> <p>21 A. That's correct.</p> <p>22 <b>Q. Do you ever remember later hearing Mary Beth</b></p> <p>23 <b>Brackin make statements in the courtroom about</b></p>	<p>1 Fondren?</p> <p>2 <b>Q. Do you remember the claim that Mr. Fondren was</b></p> <p>3 <b>making?</b></p> <p>4 A. I do.</p> <p>5 <b>Q. And do you remember what it involved?</b></p> <p>6 A. Him being arrested.</p> <p>7 <b>Q. Do you remember Mary Beth Brackin coming into</b></p> <p>8 <b>the courtroom making statements --</b></p> <p>9 MR. JAFFREE: Let me object to your</p> <p>10 leading this witness as to what Mary</p> <p>11 Beth may have said.</p> <p>12 MS. NELSON: Well, you just said, she's</p> <p>13 not my witness, so I can lead her if I</p> <p>14 want to.</p> <p>15 MR. JAFFREE: And I object to your leading</p> <p>16 her.</p> <p>17 MS. NELSON: Objection noted.</p> <p>18 MR. JAFFREE: Okay.</p> <p>19 <b>Q. Do you remember Mary Beth Brackin making any</b></p> <p>20 <b>statements in the courtroom about Mr. Fondren?</b></p> <p>21 A. Not in the courtroom. At the office.</p> <p>22 <b>Q. At the office, what do you remember her</b></p> <p>23 <b>stating?</b></p>

16 (Pages 61 to 64)

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## FREEDOM COURT REPORTING

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1 A. She advised Mr. Fondren that he needed to sue  
2 the City, that he had been arrested wrong --  
3 wrongfully.  
4 **Q. And she was making that statement --**  
5 A. She was --  
6 **Q. -- in the magistrates' office?**  
7 A. In the magistrate office.  
8 **Q. To the other magistrates?**  
9 A. Yes.  
10 MR. JAFFREE: Are you through?  
11 **Q. One other question. Did Nancy Martin ever**  
12 **invite you and Lavera to go to lunch with her?**  
13 A. No.  
14 MS. NELSON: That's all I have.  
15 EXAMINATION  
16 BY MR. JAFFREE:  
17 **Q. What all magistrates were present when**  
18 **Ms. Brackin allegedly made this statement?**  
19 A. Myself and Ms. McClain.  
20 **Q. So it's not just magistrates. It's the two**  
21 **black magistrates, correct?**  
22 A. Those two magistrates, they are, yes.  
23 **Q. Now, you indicated that she said to you that**

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1 **Mr. Fondren should sue the City.**  
2 A. Yes.  
3 **Q. Do you know what kind of claim Mr. Fondren**  
4 **made against the City?**  
5 A. I do not know specifically.  
6 **Q. Do you know if his claim was limited to just**  
7 **his towing fee?**  
8 A. I do not know.  
9 **Q. Did she indicate to you that she told him to**  
10 **sue the City for his towing fee?**  
11 A. I don't know what specific she said sue for.  
12 She said, sue the City.  
13 **Q. Sue the City?**  
14 A. Yes.  
15 **Q. Sue the City?**  
16 A. Yes, that's what she said.  
17 **Q. And do you know if he sued the City?**  
18 A. I am not sure what he done.  
19 **Q. So she came in and said, I told Mr. Fondren to**  
20 **sue the City?**  
21 A. She discussed that, and that's what she said.  
22 **Q. Did she --**  
23 A. We didn't ask her. She came up and just went

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1 to talking.  
2 **Q. She went to talking.**  
3 A. Uh-huh (positive response). And we were the  
4 only people that were there.  
5 **Q. Okay. And she said, sue the City?**  
6 A. That's what she said.  
7 **Q. And do you know if Mr. Fondren sued the City?**  
8 A. I do not know.  
9 **Q. So the best of your recollection is, her words**  
10 **were, sue the City?**  
11 A. Yes.  
12 **Q. But you didn't hear her talk to Mr. Fondren?**  
13 A. No.  
14 **Q. You don't know what she said?**  
15 A. To Mr. Fondren?  
16 **Q. Yeah.**  
17 A. No, I do not.  
18 **Q. So she could have been just embellishing her**  
19 **conversation with Mr. Fondren?**  
20 A. Well, we didn't ask her for it. She just told  
21 us.  
22 **Q. Just sue the City?**  
23 A. Yes.

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1 **Q. That's all you remember?**  
2 A. That's all I remember.  
3 **Q. And you don't know why Mr. Fondren's claim**  
4 **against the City was narrowed to just a towing**  
5 **fee, do you?**  
6 MS. NELSON: Object to the form.  
7 **Q. You don't know why that is?**  
8 MS. NELSON: Object to the form. Assumes  
9 facts not in evidence.  
10 **Q. You don't know, do you?**  
11 A. I don't know why he was suing the City.  
12 **Q. But you don't know if he did sue the City?**  
13 A. I don't know if he did.  
14 **Q. All right. Do you know if the City paid him**  
15 **any money?**  
16 A. I have no idea.  
17 **Q. All right. Okay.**  
18 MR. JAFFREE: I have no further questions.  
19 (Deposition concluded at 10:20 a.m.)  
20 \*\*\*\*\*  
21 FURTHER DEPONENT SAITH NOT  
22 \*\*\*\*\*  
23

17 (Pages 65 to 68)

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